

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

AETHER THERAPEUTICS INC.,

Plaintiff,

v.

ASTRAZENECA AB, ASTRAZENECA
PHARMACEUTICALS LP, and NEKTAR
THERAPEUTICS,

Defendants.

Case No. 20-381-MN

AETHER THERAPEUTICS INC.,

Plaintiff,

v.

REDHILL BIOPHARMA INC.

Defendant.

Case No. 21-248-MN

[PLAINTIFF'S PROPOSED] VERDICT FORM

INSTRUCTIONS TO THE JURY REGARDING THE VERDICT FORM

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case.

FINDINGS ON INFRINGEMENT CLAIMS

(The questions regarding infringement should be answered regardless of your findings with respect to the validity or invalidity of the patent.)

A. Inducing Infringement

1. Has Aether Therapeutics Inc. (“Aether”) proven by a preponderance of the evidence that AstraZeneca AB and AstraZeneca Pharmaceuticals LP (“AstraZeneca”) induced infringement of the following asserted claims?

’488 PATENT

CLAIM 25	Yes _____ (For Aether)	No _____ (For AstraZeneca)
CLAIM 26	Yes _____ (For Aether)	No _____ (For AstraZeneca)
CLAIM 29	Yes _____ (For Aether)	No _____ (For AstraZeneca)

2. Has Aether Therapeutics Inc. (“Aether”) proven by a preponderance of the evidence that Nektar Therapeutics (“Nektar”) induced infringement of the following asserted claims?

’488 PATENT

CLAIM 25	Yes _____ (For Aether)	No _____ (For Nektar)
CLAIM 26	Yes _____ (For Aether)	No _____ (For Nektar)
CLAIM 29	Yes _____ (For Aether)	No _____ (For Nektar)

3. Has Aether Therapeutics Inc. (“Aether”) proven by a preponderance of the evidence that RedHill Biopharma Inc. (“RedHill”) induced infringement of the following asserted claims?

’488 PATENT

CLAIM 25	Yes _____ (For Aether)	No _____ (For RedHill)
CLAIM 26	Yes _____ (For Aether)	No _____ (For RedHill)
CLAIM 29	Yes _____ (For Aether)	No _____ (For RedHill)

B. Contributory Infringement

4. Has Aether Therapeutics Inc. (“Aether”) proven by a preponderance of the evidence that AstraZeneca AB and AstraZeneca Pharmaceuticals LP (“AstraZeneca”) contributed to the infringement of the following asserted claims?

’488 PATENT

CLAIM 25	Yes _____ (For Aether)	No _____ (For AstraZeneca)
CLAIM 26	Yes _____ (For Aether)	No _____ (For AstraZeneca)
CLAIM 29	Yes _____ (For Aether)	No _____ (For AstraZeneca)

5. Has Aether Therapeutics Inc. (“Aether”) proven by a preponderance of the evidence that RedHill Biopharma Inc. (“RedHill”) contributed to the infringement of the following asserted claims?

’488 PATENT

CLAIM 25	Yes _____ (For Aether)	No _____ (For RedHill)
CLAIM 26	Yes _____ (For Aether)	No _____ (For RedHill)
CLAIM 29	Yes _____ (For Aether)	No _____ (For RedHill)

If you answer "YES" to questions 1, 2, 3, 4, or 5 for any of the claims, go to questions 6, 7 and 8 and answer questions 6, 7 and 8. If you did not so answer, go to question 9.

C. Willful Infringement

6. Has Aether proven by a preponderance of the evidence that AstraZeneca's infringement was willful?

Yes _____
(For Aether)

No _____
(For AstraZeneca)

7. Has Aether proven by a preponderance of the evidence that Nektar's infringement was willful?

Yes _____
(For Aether)

No _____
(For Nektar)

8. Has Aether proven by a preponderance of the evidence that RedHill's infringement was willful?

Yes _____
(For Aether)

No _____
(For RedHill)

FINDINGS ON INVALIDITY DEFENSES

(The questions regarding invalidity should be answered regardless of your findings with respect to infringement.)

A. Anticipation

9. Have Defendants proven by clear and convincing evidence that the asserted claims of the '488 Patent are invalid due to anticipation?

'488 PATENT

CLAIM 25

Yes _____
(For Defendants)

No _____
(For Aether)

CLAIM 26

Yes _____
(For Defendants)

No _____
(For Aether)

CLAIM 29

Yes _____
(For Defendants)

No _____
(For Aether)

B. Obviousness

10. Have Defendants proven by clear and convincing evidence that the claimed inventions would have been obvious to a person of ordinary skill in the art in light of the prior art?

'488 PATENT

CLAIM 25	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 26	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 29	Yes _____ (For Defendants)	No _____ (For Aether)
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C. Invalidity – Lack of Adequate Written Description

11. Have Defendants proven by clear and convincing evidence that the specification of the '488 Patent does not contain an adequate written description of the claimed invention?

'488 PATENT

CLAIM 25	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 26	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 29	Yes _____ (For Defendants)	No _____ (For Aether)
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D. Invalidity - Non-Enablement

12. Have Defendants proven by clear and convincing evidence that the specification of the '488 Patent does not enable the claimed invention?

'488 PATENT

CLAIM 25	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 26	Yes _____ (For Defendants)	No _____ (For Aether)
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CLAIM 29	Yes _____ (For Defendants)	No _____ (For Aether)
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FINDINGS ON DAMAGES

If you answered "YES" to any asserted claim in questions 1, 2, 3, 4, 5, or 6, and answered "NO" to the corresponding claim in questions: 9, 10, 11, and 12, proceed to answer the remaining questions. If you did not so answer, do not answer the remaining questions and proceed to check and sign the verdict form.

A. Damages

13. What amount of damages has Aether proven by a preponderance of the evidence that it is entitled to as a reasonably royalty for Nektar's and AstraZeneca's infringement of the '488 Patent?

\$ _____

14. What amount of damages has Aether proven by a preponderance of the evidence that it is entitled to as a reasonable royalty for RedHill's infringement of the '488 Patent?

\$ _____

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. All members of the jury should sign and date below to indicate that the jury has reached a unanimous verdict on these questions. The foreperson should then notify the security guard that you have reached a verdict. The foreperson should retain possession of the verdict form and bring it when the jury is brought back into the courtroom.

Signature:

Date:

_____	_____
_____	_____
_____	_____